

JUN 06 2006

PTO/SB/21 (09-04)

TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

59

Application Number

10/017,788

Filing Date

December 13, 2001

First Named Inventor

Nguyen, Quan

Art Unit

1641

Examiner Name

Counts, Gary W.

Attorney Docket Number

002558-064310US

1641  
8

## ENCLOSURES (Check all that apply)

- Fee Transmittal Form  
 Fee Attached
- Amendment/Reply  
 After Final  
 Affidavits/declaration(s)
- Extension of Time Request (2 copies)  
 Express Abandonment Request
- Information Disclosure Statement (with 4 refs.)
- Certified Copy of Priority Document(s)
- Reply to Missing Parts/ Incomplete Application  
 Reply to Missing Parts under 37 CFR 1.52 or 1.53

- Drawing(s)  
 Licensing-related Papers  
 Petition  
 Petition to Convert to a Provisional Application  
 Power of Attorney, Revocation  
 Change of Correspondence Address  
 Terminal Disclaimer  
 Request for Refund  
 CD, Number of CD(s) \_\_\_\_\_  
 Landscape Table on CD

- After Allowance Communication to TC  
 Appeal Communication to Board of Appeals and Interferences  
 Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  
 Proprietary Information  
 Status Letter  
 Other Enclosure(s) (please identify below):  
 Return Postcard

Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Townsend and Townsend and Crew LLP

Signature



Printed name

Joel G. Ackerman

Date

06/02/2006

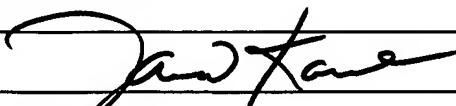
Reg. No.

24,307

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature



Typed or printed name

Dana Kane

Date

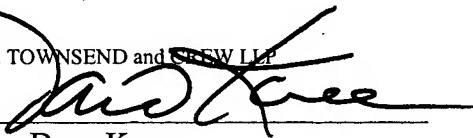
06/02/2006

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

**PATENT**  
Docket No.: 002558-064310US  
Client Ref. No.: BRP00097

On June 2, 2006

TOWNSEND and TOWNSEND and CRAW LLP

By: 

Dana Kane

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Quan NGUYEN

Patent No.:

Issued:

Application No.: 10/017,788

Filed: December 13, 2001

For: STANDARD DILUENT FOR  
MULTIPLEX ASSAYS

Confirmation No.: 6103

Examiner: Counts, Gary W.

Art Unit: 1641

**COMMUNICATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the office Action dated December 8, 2005, Applicants respectfully request reconsideration and reexamination based on the comments herein.

In order to expedite prosecution, Applicants will forbear from repeating what has been set forth in the previous documents by way of background, and focus on the differences between the claimed invention and two references in the prior art. However, in so doing, Applicants have not ceased to make the other points previously raised, and will raise them again, if necessary in an appeal.

The following comments will focus on the two references- Williams et al. and Barrera et al., which were discussed in the previous communication.

The examiner comments that the distinctions made with respect to Williams et al. in the previous communication relate to processes by which the claimed products are produced and not to the products themselves and so are irrelevant to patentability of those products. However, the comments made previously do not relate processes but to the products themselves.

Williams et al. do not produce a diluent that is lacking in one or more target analytes. Williams et al. produce a composition that is totally lacking in all steroids, all but one of which are not target analytes. Williams et al. do not disclose a diluent for a multiplex process and do not carry out a multiplex process.

Barrera et al. simply do not disclose a composition lacking in multiple analytes. The examiner quotes the use of the phrase "interleukin-1B and tumor necrosis factor" as indicating a multiplex assay. However, this was not what was done in Barrera et al. - each analyte was assayed for separately. See, for instance, p. 100 "The blood compartment contained  $^{125}\text{I}$ -labeled recombinant human IL-1 $\beta$  or TNF...." (emphasis added). This reference throughout discloses only the use of a diluent lacking in one single cytokine, and never discloses a diluent lacking two or more cytokines. The word "and" in the citation by the examiner simply lumps the two assays together in one statement, but there was no assay conducted for multiple analytes.

Applicants submit, and continue to submit, that the claims are not obvious from the cited references, and request issuance of a Notice of Allowance.

Quan NGUYEN  
Application No.: 10/017,788  
Page 3

PATENT

If the Examiner believes a telephone conference would expedite  
prosecution of this application, please telephone the undersigned.

Respectfully submitted,

Joel G. Ackerman  
Reg. No. 24,307

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: (415) 576-0200  
Fax: (415) 576-0300  
JA:ja

60788381 v1